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COMMITTEE ON APPLICATIONS FOR REVIEW
OF ADMINISTRATIVE TRIBUNAL JUDGEMENTS
Thirty-fourth session
Applications Nos. 55, 56 and 57

ADMINISTRATIVE TRIBUNAL JUDGEMENT NO. 458: SILVEIRA AGAINST THE SECRETARY-GENERAL OF THE UNITED NATIONS; No. 469: SALAYMEH AGAINST THE COMMISSIONER-GENERAL OF THE UNITED NATIONS RELIEF AND WORKS AGENCY FOR PALESTINE REFUGEES IN THE NEAR EAST; No. 476: WHEELER AGAINST THE SECRETARY-GENERAL OF THE UNITED NATIONS

Report of the Committee

Rapporteur: Mr. Anthony AUST (United Kingdom of Great Britain and Northern Ireland)

INTRODUCTION

1. At its thirty-fourth session, the Committee on Applications for Review of Administrative Tribunal Judgements, established under article 11 of the Statute of the Administrative Tribunal, considered the following applications:

(a) Application of Ms. Silveira for review of Administrative Tribunal Judgement No. 458 - Silveira v. the Secretary-General of the United Nations;

(b) Application of Mr. Salaymeh for review of Administrative Tribunal Judgement No. 469 - Salaymeh v. the Commissioner-General of the United Nations Relief and Works Agency for Palestine Refugees in the Near East;

(c) Application of Ms. Wheeler for review of Administrative Tribunal Judgement No. 467 - Wheeler v. the Secretary-General of the United Nations.

2. Meetings of the Committee were held on 5 and 7 February 1990.

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I. COMPOSITION OF THE COMMITTEE AND ORGANIZATION OF THE SESSION

3. The Committee, under paragraph 4 of article 11 of the statute of the Administrative Tribunal, is composed of the Member States, the representatives of which have served on the General Committee of the most recent regular session of the General Assembly (forty-fourth session), namely, at this time: Antigua and Barbuda, Austria, Bolivia, Brunei Darussalam, Burkina Faso, China, Congo, Costa Rica, France, Gambia, Iran (Islamic Republic of), Iraq, Kuwait, Luxembourg, Morocco, Nigeria, Norway, Papua New Guinea, Poland, Syrian Arab Republic, Sudan, Tunisia, Ukrainian SSR, Union of Soviet Socialist Republics, United Kingdom of Great Britain and Northern Ireland, United States of America, Vanuatu, Venezuela and Zimbabwe.

4. At its 1st meeting, on 5 February 1990, the Committee elected the following officers:

Chairman: Mr. Thomas Hajnoczi (Austria)

Rapporteur: Mr. Anthony Aust (United Kingdom)

II. THE APPLICATIONS BEFORE THE COMMITTEE AND THEIR CONSIDERATION

5. On 27 December 1989, the Committee received, through its Secretary, an application from Ms. Silveira requesting a review of Judgement No. 458 rendered by the United Nations Administrative Tribunal on 7 November 1989 in the case Silveira against the Secretary-General of the United Nations. In accordance with paragraph 1 of article III of the rules of procedure of the Committee, the application, which had been submitted in English, was translated into the other languages of the General Assembly. Thereafter, on 15 January 1990, in accordance with the same rules of procedure, the application was communicated in the form of a document (A/AC.86/R.179) to all members of the Committee, as well as to the parties to the proceedings before the Administrative Tribunal, together with a copy of the judgement of the Administrative Tribunal (AT/DEC/458).

6. Written comments of the Respondent, submitted with respect to the application of Ms. Silveira in accordance with paragraph 1 of article IV of the rules of procedure of the Committee, were received by the Secretary of the Committee on 23 January 1990 and thereafter duly circulated to all members of the Committee in document A/AC.86/R.180.

7. The Committee considered the application of Ms. Silveira at its closed meeting held on 5 February 1990.

8. The Committee decided, without a vote, that there was not a substantial basis for the application of Ms. Silveira under article 11 of the statute of the Administrative Tribunal and therefore concluded that the International Court of Justice should not be requested to give an advisory opinion in respect of Judgement No. 458 delivered by the United Nations Administrative Tribunal in the case of Silveira against the Secretary-General of the United Nations.

9. On 21 December 1989 the Committee received, through its Secretary, an application from Mr. Salaymeh requesting a review of Judgement No. 469 rendered by the United Nations Administrative Tribunal on 17 November 1989 in the case Salaymeh against the Commissioner-General of the United Nations Relief and Works Agency for Palestine Refugees in the Near East. The application did not comply with the requirements set forth in paragraph 2 of article II of the rules of procedure of the Committee, in particular with subparagraph (c). Therefore, as provided for in paragraph 2 of article III of the rules of procedure of the Committee, with the approval of the Rapporteur of the Committee, on 22 December 1989 the application was returned to Mr. Salaymeh with a request that it be corrected and resubmitted within three weeks. On 12 January 1990, a corrected application of Mr. Salaymeh was received by the Secretary of the Committee. In accordance with paragraph 1 of article III of the rules of procedure of the Committee, the application, which had been submitted in English, was translated into the other languages of the General Assembly. Thereafter on 23 January 1990, in accordance with the same rules of procedure, the application was communicated in the form of a document (A/AC.86/R.182) to all members of the Committee, as well as to the parties to the proceedings before the Administrative Tribunal, together with a copy of the judgement of the Administrative Tribunal (AT/DEC/469).

10. The written comments of the Respondent submitted with respect to the application of Mr. Salaymeh in accordance with paragraph 1 of article IV of the rules of procedure of the Committee, were received by the Secretary of the Committee on 24 January 1990 and thereafter duly circulated to all members of the Committee in document A/AC.86/R.183.

11. The Committee considered the application of Mr. Salaymeh at its closed meeting held on 5 February 1990.

12. The Committee decided, without a vote, that there was not a substantial basis for the application of Mr. Salaymeh under article 11 of the statute of the Administrative Tribunal and therefore concluded that the International Court of Justice should not be requested to give an advisory opinion in respect of Judgement No. 469 delivered by the United Nations Administrative Tribunal in the case of Salaymeh against the Commissioner-General of the United Nations Relief and Works Agency for Palestine Refugees in the Near East.

13. On 22 January 1990, the Committee received, through its Secretary, an application from Ms. Wheeler requesting a review of Judgement No. 467 rendered by the United Nations Administrative Tribunal on 16 November 1989 in the case Wheeler against the Secretary-General of the United Nations. In accordance with paragraph 1 of article III of the rules of procedure of the Committee, the application, which had been submitted in English, was translated into the other languages of the General Assembly. Thereafter, on 26 January 1990, in accordance with the same rules of procedure, the application was communicated in the form of a document (A/AC.86/R.184) to all members of the Committee, as well as to the parties to the proceedings before the Administrative Tribunal, together with a copy of the judgement of the Administrative Tribunal (AT/DEC/467).

14. Written comments of the Respondent, submitted with respect to the application of Ms. Wheeler in accordance with paragraph 1 of article IV of the rules of procedure of the Committee, were received by the Secretary of the Committee on 31 January 1990 and thereafter duly circulated to all members of the Committee in document A/AC.86/R.185.

15. The Committee considered the application of Ms. Wheeler at its closed meeting held on 5 February 1990.

16. The Committee decided, without a vote, that there was not a substantial basis for the application of Ms. Wheeler under article 11 of the statute of the Administrative Tribunal and therefore concluded that the International Court of Justice should not be requested to give an advisory opinion in respect of Judgement No. 467 delivered by the United Nations Administrative Tribunal in the case of Wheeler against the Secretary-General of the United Nations.

17. In accordance with article VII, paragraph 4, of the rules of procedure of the Committee, the decisions of the Committee with regard to the applications of Ms. Silveira, Mr. Salaymeh and Ms. Wheeler were formally announced by the Chairman at the meeting of the Committee, held in public on 7 February 1990.

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